

EXHIBIT

4

CERTIFIED
ORIGINAL

1 S54682B

2
3 IN THE UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF ILLINOIS
5 EASTERN DIVISION

6 PAINTER'S DISTRICT)

7 COUNCIL NO. 30,)

8 Plaintiff/)

9 Counterdefendant,)

10 vs.)

No. 08 CV 1163

11 VINCO PAINTING, INC.,)

12 Defendant/)

13 Counterplaintiff.)

14 Deposition of JAMES STELMASEK, called as a
15 witness by the Defendant/Counterplaintiff,
16 pursuant to the provisions of the Illinois Code
17 of Civil Procedure and the rules of the Supreme
18 Court thereof pertaining to the taking of
19 depositions for the purpose of discovery, before
20 Karen S. Fogle, CSR, RPR, and a Notary Public in
21 and for the County of DuPage, State of Illinois,
22 taken at Berglund & Niew, P.C., Suite 122, 900
23 Jorie Boulevard, Oak Brook, Illinois, on the 19th
24 day of May, A.D. 2008, at the hour of 11:40 a.m.

1 **PRESENT:**

2 **JACOBS, BURNS, ORLOVE, STANTON & HERNANDEZ, by**
3 **MR. DAVID HUFFMAN-GOTTSCHLING,**
4 **Suite 1720**
 122 South Michigan Avenue
5 **Chicago, Illinois 60603**
 (312) 327-3443

6

appeared on behalf of
7 **Plaintiff/Counterdefendant; and**
8 **BERGLUND & NIEW, P.C., by**
9 **MR. JOSEPH P. BERGLUND,**
10 **Suite 122**
 900 Jorie Boulevard
11 **Oak Brook, Illinois 60523**
 (630) 990-0234

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appeared on behalf of
13 **Defendant/Counterplaintiff.**

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I N D E X

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EXAMINATION

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By Mr. Berglund

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E X H I B I T S

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(No deposition exhibits introduced.)

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**JAMES STELMASEK -- 5/19/08
EXAMINATION BY MR. BERGLUND**

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1 (The witness was thereupon duly
2 sworn.)

3 MR. BERGLUND: Good morning.

4 Let the record reflect that this is the
5 discovery deposition of James Stelmasek taking
6 place at 900 Jorie Boulevard, Oak Brook,
7 Illinois.

8 JAMES STELMASEK,
9 called as a witness by the Defendant/Counter-plaintiff,
10 pursuant to the provisions of the Illinois Code of
11 Civil Procedure and the rules of the Supreme Court
12 thereof pertaining hereto, having first been duly
13 sworn, was examined and testified as follows:

14 E X A M I N A T I O N

15 BY MR. BERGLUND:

16 Q Can you state your name and spell your last name.

17 A James Stelmasek, S-t-e-l-m-a-s-e-k.

18 Q Have you ever been deposed before?

19 A Yes, I have.

20 Q Approximately how many times?

21 A Once.

22 Q I'm going to ask you a series of questions. You
23 just sat through the deposition of Mr. Charles
24 Anderson so you see how the process goes.

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EXAMINATION BY MR. BERGLUND

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1 If you don't understand one of my
2 questions, please let me know that you don't
3 understand, otherwise I will assume that you
4 understood the question; okay?

5 A Yes.

6 Q And if you need to take a break, tell me you need
7 a break; okay?

8 A Yes.

9 Q Mr. Selmasek, are you currently employed?

10 A Yes, I am.

11 Q By whom?

12 A Painter's District Council No. 30.

13 Q How long have you been employed by Painter's
14 District Council No. 30?

15 A Approximately 17 years.

16 Q What is your current position?

17 A Business representative.

18 Q Have you been a business representative for the
19 entire time you have been employed at Painter's
20 District?

21 A Yes, I have.

22 Q Do you report to anyone?

23 A Yes.

24 Q Who do you report to?

JAMES STELMASEK -- 5/19/08
EXAMINATION BY MR. BERGLUND

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1 A Charles Anderson.

2 Q How long have you reported to him?

3 A For probably 15-odd years.

4 Q Briefly, what are your daily responsibilities as
5 a business representative?

6 A I police jobs, I take in members' complaints and
7 deal with the membership when it comes to that.

8 Q Where is your office?

9 A 1905 Sequoia Drive, Suite 201, Aurora.

10 Q Are you familiar with Vinco Painting?

11 A Yes, I am.

12 Q How are you familiar with them?

13 A They are a signatory contractor.

14 Q Did you have occasion to file charges against
15 Vinco Painting?

16 A Yes, I did.

17 Q Let me show you what was previously marked as
18 Deposition Exhibit No. 2. If you can review that
19 and let me know if you're familiar with that
20 document.

21 A Yes, I am.

22 Q Are these the charges that you filed against
23 Vinco Painting?

24 A Yes, they are.

JAMES STELMASEK -- 5/19/08
EXAMINATION BY MR. BERGLUND

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1 Q The charges have some documentation attached to
2 it. Do you see those documents?

3 A Yes, I do.

4 Q Do you know if any of these documents in
5 Deposition Exhibit No. 2 were provided to Vinco
6 Painting?

7 A I don't know that because I don't send the
8 charges.

9 Q Can you turn to the third page of this exhibit
10 where it says, "Vinco Painting, amended
11 January 24, 2008."

12 Do you know what this document is?

13 A Yes, I do.

14 Q What is it?

15 A This is a total of amounts that I believe are
16 owed according to the members that came forward
17 with information.

18 Q Does this constitute part of the charges you
19 filed against Vinco Painting?

20 A This one is amended 1/24. I did one prior that
21 was filed with the charges. I believe it was
22 Loren Deland who came in after that with
23 additional information.

24 Q If you can let me show you, then, what was marked

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EXAMINATION BY MR. BERGLUND**

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1 as Deposition Exhibit No. 1. If you could take a
2 look at this document and tell me if the prior
3 calculations are contained in there.

4 A Yes, they are.

5 Q And how does the amended January 24, 2008,
6 calculations differ from the original?

7 A There was -- Member Loren Deland came forward
8 with some more information after the original
9 charges were filed.

10 Q With regard to the documents that followed the
11 amended calculations in Deposition Exhibit No. 2,
12 are those documents that relate to the charges
13 previously filed against Vinco Painting?

14 A Correct.

15 Q I don't want to get into the merits of the
16 charges, I'm trying to understand exactly what
17 the charges represent.

18 Were you at the Joint Trade Board hearing
19 on January 17, 2008?

20 A Yes, I was.

21 Q You didn't present the amended calculations, did
22 you, on January 17, 2008?

23 A No.

24 Q If you could look back at Deposition Exhibit

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- 1 No. 1, which contains a letter you signed on
2 December 28, 2007, addressed to Charles Anderson,
3 do you see that?
- 4 A Yes.
- 5 Q Does this document contain references to the
6 agreement which you charged Vinco Painting with
7 violating?
- 8 A Correct.
- 9 Q Can you point out, then, the violations you
10 charged Vinco Painting -- can you actually show
11 me where in this letter the different sections of
12 the bargaining that you charged Vinco Painting
13 with violating?
- 14 A I don't understand.
- 15 Q You charged Vinco with violating the collective
16 bargaining agreement; correct?
- 17 A Yes.
- 18 Q And the different sections that you charged Vinco
19 Painting with violating; correct?
- 20 A Yes.
- 21 Q Are those sections set forth on the first page of
22 your letter dated December 28, 2007?
- 23 A Yes.
- 24 Q How many violations did you charge Vinco with?

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EXAMINATION BY MR. BERGLUND

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1 A Looks like four.

2 Q What are those four violations?

3 A They did not pay into dues check off and
4 organizing and defense fund; wage rate issues
5 that they didn't pay overtime allegedly; and they
6 also did not pay some guys; and they did not
7 include detachable check stubs as required; and
8 also they were not making or submitting their
9 monthly reports to the office.

10 Q If you can look at the first page of the
11 attachment to your charge where it says, "Grand
12 total \$4,276.61," did you generate this document?

13 A Yes, I did.

14 Q Does the grand total represent wages and benefits
15 you believe was owed by Vinco Painting?

16 A Correct; everything above it.

17 Q Following these calculations are four pages. The
18 first page has the name of Loren Deland, second
19 one has a William Medina on it, third one has
20 Jesus Mota, and the fourth one is Jeremy Weise.

21 Does the document with the grand totals,
22 then, reflect the addition of all the amounts
23 alleged to be owed to those four individuals?

24 A Correct.

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1 Q To them or on their behalf; is that correct?

2 A Yes.

3 Q Did you have any involvement in mailing the
4 meeting minutes of the Joint Trade Board to Vinco
5 Painting?

6 A The minutes, no.

7 Q Did you mail your charges to Vinco Painting?

8 A No.

9 Q Let me show you what has been marked as
10 Deposition Exhibit No. 5. If you could take a
11 moment to review it and let me know when you're
12 finished.

13 A Okay.

14 Q Have you seen this document before today?

15 A Yes, I have.

16 Q When was the first time you saw it?

17 A I believe on the 24th of January.

18 Q Is any of this writing your writing?

19 A Yes, it is.

20 Q Can you tell me what it is.

21 A Denise, fax number, and the notes from 1/24
22 and 1/25.

23 Q Did you speak with Denise Angelilli after
24 January 17, 2008?

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1 A Yes, I did. I left a message on the 24th, and I
2 believe she got back to me on the 25th.

3 Q What number did she call you at on January 25th?

4 A At the office.

5 Q How long did this conversation last?

6 A Not long, 30 seconds or a minute.

7 Q Anyone else on the phone?

8 A Not that I know of.

9 Q What did she say to you and you say to her?

10 A I let her know that I was calling about the
11 charges and the alleged amounts they owed. And I
12 would be faxing over the amended report.

13 Q Did you talk with her again?

14 A No.

15 Q Did you ever speak with Vince Angelilli after
16 January 17, 2008?

17 A No.

18 Q Let me show you what I have previously marked as
19 Deposition Exhibit No. 9. Can you take a moment
20 to review it and let me know if you have seen
21 this document before today.

22 A I don't recall ever seeing this.

23 Q If I can point your attention to Deposition
24 Exhibit No. 9, second paragraph, the last line,

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13

1 did you tell Denise Angelilli that the numbers
2 were outrageous and she should ignore them?

3 A Absolutely not.

4 Q Did you say anything about the monetary amount by
5 the Joint Trade Board to Denise Angelilli?

6 A I don't recall.

7 Q Did Denise Angelilli tell you that she had not
8 received notice of the Joint Trade Board hearing
9 that was scheduled for January 17, 2008?

10 A I don't remember her saying that, no.

11 Q Did you discuss anything with Denise Angelilli
12 about Vinco Painting appealing the award at the
13 Joint Trade Board?

14 A No.

15 Q Do you personally know if Vinco Painting received
16 notice of the charges you filed against them
17 before the hearing occurred on January 17, 2008?

18 A No.

19 Q Do you personally know if Vinco Painting received
20 notice of the hearing that was set for
21 January 17, 2008?

22 A No.

23 MR. BERGLUND: I have no more
24 questions.

**JAMES STELMASEK -- 5/19/08
EXAMINATION BY MR. BERGLUND**

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1 **MR. GOTTSCHLING: I don't either.**

2 **Signature is reserved on both.**

3 **AND FURTHER DEPONENT SAITH NOT AT 11:57 A.M.**

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ERRATA SHEET

2	PAGE	LINE	CHANGE	REASON
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1 I have read the above and foregoing, and it
2 is a true and correct transcript of my deposition
3 given on the day and date aforesaid.

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JAMES STELMASEK

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13 Subscribed and sworn to before me

14 this ____ day of _____, 2008.

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Notary Public

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20 My Commission Expires

21 _____.

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1 STATE OF ILLINOIS)
) SS.

2 COUNTY OF DU PAGE)
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4 I, Karen S. Fogle, Certified Shorthand
5 Reporter No. 084-004603, CSR, RPR, and a Notary
6 Public in and for the County of DuPage, State of
7 Illinois, do hereby certify that previous to the
8 commencement of the examination, said witness was
9 duly sworn by me to testify the truth; that the
10 said deposition was taken at the time and place
11 aforesaid; that the testimony given by said
12 witness was reduced to writing by means of
13 shorthand and thereafter transcribed into
14 typewritten form; and that the foregoing is a
15 true, correct, and complete transcript of my
16 shorthand notes so taken as aforesaid.

17 I further certify that there were present
18 at the taking of the said deposition the persons
19 and parties as indicated on the appearance page
20 made a part of this deposition.

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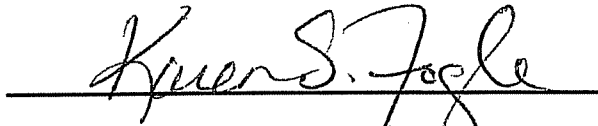
1 I further certify that I am not counsel for
2 nor in any way related to any of the parties to
3 this suit, nor am I in any way interested in the
4 outcome thereof.

5 IN TESTIMONY WHEREOF I have hereunto set my
6 hand and affixed my Notarial Seal this 2nd day
7 of June, A.D. 2008.

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Certified Shorthand Reporter

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Registered Professional Reporter

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15 My commission expires

16 August 25, 2009

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